the deceased that are under his control, or from the proceeds of a sale of the property or a part thereof.

[36 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§ 4.271 Summary distribution.

When an Indian dies intestate leaving only trust personal property or cash of a value of less than $5,000, not including any interest that may have accrued after the death of the decedent, the Bureau of Indian Affairs will assemble the apparent heirs and hold an informal hearing to determine the proper distribution of the estate, unless it appears that the decedent left a last will and testament intending to devise his estate, and/or the decedent dies possessed of an interest in trust or restricted real property. A memorandum covering the hearing will be retained in the agency files showing the date of the decedent's death, the date of the hearing, the persons notified and attending the hearing, the amount on hand, and its disposition. In the disposition of such funds, the Bureau of Indian Affairs will credit the balance, if any, to the legal heirs. When requested by the Bureau of Indian Affairs, an administrative law judge may assume jurisdiction to dispose of creditors' claims or to make distribution determinations if the administrative law judge finds that exceptional circumstances exist. A party in interest may appeal a distribution determination in accordance with 43 CFR 4.320.

[65 FR 25450, May 2, 2000]

§ 4.272 Omitted property.

(a) When, subsequent to the issuance of a decision under § 4.240 or § 4.312, it is found that trust property or interest therein belonging to a decedent has not been included in the inventory, the inventory can be modified either administratively by the Commissioner of the Bureau of Indian Affairs or by a modification order prepared by him for the administrative law judge's approval and signature to include such omitted property for distribution pursuant to the original decision. Copies of such modifications shall be furnished to the Superintendent and to all those persons who share in the estate.

(b) When the property to be included takes a different line of descent from that shown in the original decision, the Commissioner of the Bureau of Indian Affairs shall notify the administrative law judge who shall proceed to hold hearings if necessary and shall issue a decision under § 4.240. The record of any such proceeding shall be lodged with the title plant designated under § 4.236(b).

[36 FR 7186, Apr. 15, 1971; 36 FR 7588, Apr. 22, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§ 4.273 Improperly included property.

(a) When subsequent to a decision under § 4.240 or § 4.312, it is found that property has been improperly included in the inventory of an estate, the inventory shall be modified to eliminate such property. A petition for modification may be filed by the Superintendent of the Agency where the property is located, or by any party in interest.

(b) The administrative law judge shall review the record of the title upon which the modification is to be based, and enter an appropriate decision. If the decision is entered without a hearing, the administrative law judge shall give notice of his action to all parties whose rights are adversely affected allowing them 60 days in which to show cause why the decision should not then become final.

(c) Where appropriate the administrative law judge may conduct a hearing at any stage of the modification proceeding. Any such hearing shall be scheduled and conducted in accordance with the rules of this subpart. The administrative law judge shall enter a final decision based on his findings, modifying or refusing to modify the property inventory and his decision shall become final at the end of 60 days from the date it is mailed unless a notice of appeal is filed by an aggrieved party within such period. Notice of entry of the decision shall be given in accordance with § 4.240(b).

(d) A party aggrieved by the administrative law judge's decision may appeal to the Board pursuant to the procedures in §§ 4.310 through 4.323.